IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION

CIVIL ACTION NO. 3:23-CV-00217-KDB-SCR

HUBERT SIMPSON,)	
Plaintiff(s),)))	
v.	ORDE	<u> R</u>
CAROTHERS HOLDING COMPANY, LLC, et. al.,)))	
Defendants.)	

THIS MATTER is before the Court on Defendant Carothers Holding Company, LLC's "Motion to Dismiss the Complaint..." (Doc. No. 11) filed April 21, 2023, Plaintiff's "Motion to Amend Complaint..." (Doc. No. 15) filed May 5, 2023, and the StoneMor Defendants' "Motion to Dismiss" (Doc. No. 16) filed May 5, 2023.

Rule 15 of the Federal Rules of Civil Procedure governs amendments to pleadings. Rule 15(a)(1) grants a party the right to "amend its pleading once as a matter of course," if done within 21 days after serving the pleading, Fed. R. Civ. P. 15(a)(1)(A), or "if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier." Fed. R. Civ. P. 15(a)(1)(B). The Rule further provides that leave to amend shall be freely given "when justice so requires." Fed. R. Civ. P. 15(a)(2).

Plaintiff moved for leave to amend within 21 days following receipt of Defendant Carothers Holding Company, LLC's Motion to Dismiss. No Answer has been filed. Accordingly, the amendment is as a matter of course. Fed. R. Civ. P. 15(a)(1)(B).

It is well settled that an amended pleading supersedes the original pleading, and that motions directed at superseded pleadings are to be denied as moot. <u>Hall v. Int'l Union, United Auto.</u>, Aerospace & Agric. Implement Workers of Am., No. 3:10-CV-418-RJC-DSC, 2011 WL 4014315, at *1 (W.D.N.C. June 21, 2011); <u>Young v. City of Mount Ranier</u>, 238 F.3d 567, 572-73 (4th Cir. 2001).

IT IS THEREFORE ORDERED that:

- 1. Plaintiff's "Motion to Amend Complaint..." (Doc. No. 15) is **GRANTED**. Plaintiff shall file an Amended Complaint within 21 days of this Order.
- 2. Defendant Carothers Holding Company, LLC's "Motion to Dismiss the Complaint..."

 (Doc. No. 11) and the StoneMor Defendants' "Motion to Dismiss" (Doc. No. 16) are administratively **DENIED** as moot without prejudice.
- 3. The Clerk is directed to send copies of this Order to counsel for the parties and to the Honorable Kenneth D. Bell.

SO ORDERED.

Signed: May 8, 2023

Susan C. Rodriguez
United States Magistrate Judge